

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)
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Expanding the Economic and Innovation) Docket No.: 12-268
Opportunities of Spectrum Through Incentive)
Auctions)
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To: Office of the Secretary

Comments of Casa En Denver, Inc.

Casa En Denver, Inc. ("Casa"), licensee of Stations KQCK(TV) at Cheyenne, WY and KQDK-CA at Aurora, CO, pursuant to Sections 1.415 and 1.419 of the Commission's rules,¹ files comments in response to the Commission's Notice of Proposed Rulemaking in the above-referenced proceeding to focus on the treatment of Class A stations as part of the channel repacking process.²

In addition to full-power station KQCK(TV), Casa operates a Class A television station licensed to Aurora, Colorado. Through the use of its full-power and its Class A stations, Casa effectively serves the Denver Designated Market Area.³ Casa has expended significant time and resources to upgrade the station's technical facilities and improve service to the public while working toward transitioning the station to digital operations. In light of the Commission's implementation of the Spectrum Act and its efforts to

¹ 47 C.F.R. §§1.415, 1.419.

² *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking, Docket No. 12-268, FCC 12-118 (rel. Oct. 2, 2012) ("NPRM").

³ As determined by Nielsen.

develop rules toward advancing voluntary incentive auctions for broadcast spectrum, Casa wishes to ensure that the Commission affords stations such as Casa's full-power and Class A television stations sufficient protections against undue loss of service and rights to participate fully in the auction so that its investments are not stranded and the public continues to receive its programming.

Discussion

Casa believes that the appropriate incentive auction design requires careful consideration of the tradeoffs among competing services and a sharp awareness of the impact of the design of the auction procedures on television viewers and subscribers to broadband services. Casa concurs with the Commission's determination in the NPRM that Section 6403 of the Spectrum Act makes full power and Class A broadcast television licensees eligible to participate in the reverse auction portion of the voluntary broadcast incentive auction.⁴ In Casa's view, Class A TV stations should be entitled to compensation in return for the voluntary relinquishment of their Class A usage rights. Such treatment is consistent with the primary status afforded to Class A stations under the FCC's rules and with Congressional intent as reflected in the plain language of the Spectrum Act.⁵

Casa also concurs with the Commission's proposal "to evaluate the reverse auction bid of a digital Class A station licensed after February 22, 2012, based on the

⁴ NPRM at ¶¶73-74.

⁵ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402, 6403, 125 Stat. 156 (2012). Section 6403 requires "a reverse auction to determine the amount of compensation that each [licensee of (A) a full-power television station; or (B) a Class A television station] would accept in return or voluntarily relinquishing some or all of its broadcast television spectrum usage rights." Spectrum Act §§6403(a)(1), 6403(b)(2).

station's licensed facility on the date of commencement of the reverse auction process."⁶

In the case of KQDK-CA, on June 27, 2012, an application for minor modification of the station's 2009 construction permit was filed.⁷ Casa has a pending application for license to cover the modified construction permit.⁸ It would be unfair for the Commission to adopt a policy that would strand investments such as these by Class A station licensees. To the contrary, the Commission should continue to provide licensees with incentives to continue to improve digital services via facilities upgrades prior to the commencement of the reverse auction process.

Further, the Commission should advance policies to preserve the protected service contour of Class A television stations in connection with any repacking of broadcast channels as part of the incentive auction process.⁹ The NPRM proposes to protect "certain digital Class A facilities that were not licensed as of February 22, 2012"¹⁰ by delegating authority to the Media Bureau to issue a Public Notice requiring all Class A stations with unbuilt digital construction permits to inform the Commission of their digital transition plans by a date certain. Casa agrees with this approach on the grounds of fundamental fairness to licensees who expended funds to construct facilities based on the FCC's September 1, 2015 digital transition deadline for Class A stations. In the case of Casa, a license to cover digital facilities was requested in November 2012, several months after the February 22, 2012 date that "licensed" facilities would be protected. Casa agrees with the sentiment in the NPRM that Commission policy should not strand

⁶ NPRM at ¶80.

⁷ FCC File Nos: BDFCDTA-20090701AAA, BMPDTA-20120627AAT.

⁸ FCC File No. BLDTA-20121031AAN.

⁹ NPRM at ¶99.

¹⁰ NPRM at ¶115.

such investment by declining to provide protection in the repacking process for these kinds of license improvements that improve service to the public.

As set forth above, Casa respectfully requests that the Commission adopt policies for the reverse auction and the channel repacking process in this proceeding that are consistent with the positions set forth herein.

Respectfully submitted,

/s/ Juan Salvador

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